

TAB B

1 calls, and I just don't record them.

2 Q. In a later -- in a letter dated
3 January 15, 2003, which is marked as Exhibit 32,
4 your attorney states that with respect to its
5 claim for fair compensation for the sorting,
6 storage, and transportation of CHEP pallets,
7 Buckeye believes that it is entitled to either, A,
8 the surcharge price CHEP charges for shipment of
9 pallets to hostile or noncooperative NPDs or, B,
10 the price Buckeye has paid -- the price Buckeye
11 has been paid by those who put into circulation
12 other proprietary pallets for return of these
13 pallets.

14 What's Buckeye's rationale for the
15 belief that CHEP should be required to pay a
16 recycler who happens to come into possession of
17 CHEP pallets the same surcharge price that CHEP
18 charges its customers for the shipment of pallets
19 to hostile or noncooperative NPDs?

20 A. Well, I just think that's what the
21 value CHEP puts on that service.

22 Q. What service?

23 A. Well, when they lose their pallet,
24 that's what they charge their lessee. So they've

1 termed that to be the value.

2 Q. What service? The service of --

3 A. Loss of their pallet.

4 Q. Not the service of transportation,
5 handling, and storage, correct?

6 A. No. They -- CHEP's anticipating
7 getting that back. They're incurring that
8 expense, CHEP is, with their asset recovery folks
9 to get the pallet back. That's what they charged
10 the lessee to do that.

11 Q. Would a price of \$8 per pallet result
12 in an overall profit to Buckeye of more or less
13 than 8 percent on the CHEP pallets?

14 A. I'll have to figure that out. I would
15 estimate it would probably be more than, but
16 there -- with the other proprietary pallets we're
17 making more than 8 percent.

18 Q. That's not what you stated in your
19 affidavit, is it?

20 A. No. What I stated -- yes, you're
21 right, that isn't exactly what I stated. That
22 could be in conflict.

23 Q. How would you know whether \$8 per
24 pallet results in a profit of more or less than

1 8 percent?

2 A. Well, I wouldn't know with any degree
3 of accuracy without sitting down and trying to
4 figure it out. You know, sometimes I get -- I get
5 the direction that we're buffoons in this
6 business, and we're not. I can tell you exactly
7 what a new pallet costs to make.

8 The problem with the recycling
9 industry, there's no way to do that because
10 there's no consistency of how you receive your
11 goods. There's no consistency with location.
12 There's no consistency with volume. There's just
13 no consistency. So you have to deal on the big
14 picture, how does it generally do. We get CHEP
15 pallets from as close as Springfield and as far
16 away as Louisville, Kentucky. So it's difficult.

17 Q. What is Buckeye's rationale for the
18 belief that CHEP should be required to pay a
19 recycler who happens to come into possession of
20 CHEP pallets the same price which Buckeye has paid
21 by Anheuser-Busch or Miller Brewing for a return
22 of their pallets?

23 A. Because the same issues are involved.

24 Q. What are those issues?

1 A. Well, the issues of you're incidentally
2 coming into possession of what we believe are our
3 pallets, we would like to have them back, what are
4 you willing -- what do you want to send them back
5 to us? That's a negotiated, market-driven number,
6 so it would be comparable.

7 Q. Would a price of 4 to \$6.50 per pallet
8 result in an overall profit to Buckeye of more or
9 less than 8 percent?

10 A. It depends on the volume. It depends
11 on the location. It depends on so many variables
12 that I can't answer that in the abstract. If I
13 get a truckload of CHEP pallets, that will be
14 more. If I get one CHEP pallet coming from
15 Louisville, it would be less.

16 Q. And, in fact, it is true, is it not, as
17 both you, your son, and your chief financial
18 officer previously testified, that Buckeye has no
19 accurate or reliable method of determining its
20 cost of transporting, handling, sorting, and
21 storing CHEP pallets in its possession and "would
22 have to implement all new record keeping to come
23 up with that answer"?

24 A. That is probably correct, with any

1 degree of accuracy.

2 Q. Why wouldn't the \$1.57 per pallet
3 figure mentioned in Mr. Sherry's letter of
4 October 10 constitute reasonable compensation for
5 transporting, handling, sorting, and storing CHEP
6 pallets?

7 MR. WILSON: Objection to form.

8 THE WITNESS: So what's that mean?

9 MR. WILSON: I'm just preserving the
10 record.

11 A. That's the number that he had by
12 contract. I don't know where the CHEP depot was
13 located, but maybe it's across the street. We go
14 90 miles to get to any CHEP depot. I just don't
15 know how he came up with his number.

16 Q. How do you know that that's his number
17 he had by contract?

18 A. Because he told me that, I believe.
19 The whole suit involved enforcement of the
20 contract that he had that CHEP unilaterally
21 canceled.

22 Q. Other than referencing the contract,
23 has Mr. Sherry provided you with any other
24 information concerning "our method of justifying